

BEFORE THE BOARD OF OPTOMETRY

STATE OF IDAHO

In the Matter of)	Case No. O-03-95-001
)	
DALE L. MILES,)	CONSENT ORDER
License No. O-483,)	
)	
Respondent.)	

ORIGINAL

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COME NOW the Idaho State Board of Optometry (hereinafter "Board") and Dale L. Miles (hereinafter "Respondent"), and enter into this Consent Order in lieu of a formal administrative hearing pursuant to Idaho Code § 67-5241.

I.

For the purposes of the entry of this Order, the following facts are hereby adopted by the Board:

1. Respondent is a licensee of the Idaho State Board of Optometry and holds license number O-483 to practice optometry in the State of Idaho. Respondent's license is and has been in full force and effect at all times pertinent herein. Respondent's license is subject to the provisions of title 54, chapter 15, Idaho Code, and the rules of the Board promulgated at IDAPA 24.10.01.

2. At all times pertinent herein, Respondent was employed as an optometrist in Rupert, Idaho.

3. On approximately August 5, 1994, W. Marty Kelsey requested and Respondent agreed to provide an eye examination and a prescription for contact lenses for Mr. Kelsey's daughter, Katie, for a fee of \$65.00.

4. Prior to the commencement of the eye examination, Mr. Kelsey informed Respondent that he was not a resident of Rupert, Idaho, and that he intended to have the contact lens prescription filled elsewhere.

5. Respondent accepted Mr. Kelsey's money for a contact lens prescription knowing that he did not intend to provide Mr. Kelsey a prescription for contact lenses and failed to notify Mr. Kelsey of that fact.

6. The allegations stated above constitute grounds for discipline against Respondent's license pursuant to Idaho Code § 54-1510(7) and (8).

II.

I, Dale L. Miles, by affixing my signature hereto, acknowledge that:

1. I have read and understand the allegations pending before the Board, as stated above in section I. I further understand that these allegations constitute cause for disciplinary action upon my license to practice optometry in the State of Idaho.

2. I understand that I have the right to a full and complete hearing; the right to confront and cross-examine witnesses who would testify against me; the right to present evidence in my favor or to call witnesses in my behalf, or to so testify myself; the right to reconsideration; the right to appeal; and all rights accorded by the Administrative Procedure Act of the State of Idaho and the laws and rules governing the practice of optometry in the State of Idaho. I hereby freely and voluntarily waive these rights in order to enter into this stipulation as a resolution of the pending allegations against me.

3. I understand that in signing this consent order I am enabling the Board to impose disciplinary action upon my license without further process.

4. I do not admit the foregoing findings of fact; however, I specifically waive my right to contest these findings in any subsequent proceedings before the Board.

III.

1. Based upon the foregoing stipulation, it is agreed that the Board may issue a decision and order upon this stipulation whereby license number O-483, issued to Respondent Dale L. Miles, is hereby suspended for a period of fifteen (15) days provided, however, that said suspension is stayed and Respondent is placed on probation for a period of two (2) years on the following conditions:

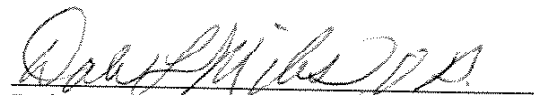
a. Respondent shall refund W. Marty Kelsey all monies paid by W. Marty Kelsey for the eye examination for his daughter on August 5, 1994; and

b. Respondent shall not violate any federal, state or local laws or rules governing the practice of optometry in the State of Idaho.

2. The violation of any of the terms of this stipulation by Respondent will result in the termination of the stay and an order of suspension will issue. The Board therefore retains jurisdiction over this proceeding until all matters are finally resolved as set forth in this stipulation. Upon successful completion of probation, respondent's license will be fully restored.

I have read the above stipulation fully and have discussed it with my counsel. I understand that by its terms I will be waiving certain rights accorded me under Idaho law. I also understand that by its terms the Idaho State Board of Optometry will issue an Order on this stipulation whereby my license to practice optometry will be placed on probation, subject to the above delineated terms and conditions. I agree to the above stipulation for settlement.


DATED this 26 day of June, 1995.


Dale L. Miles, Respondent

I concur in this stipulation and order.

DATED this 19th day of July, 1995.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

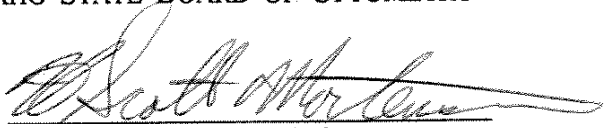
By 
Nicole S. McKay
Deputy Attorney General

934-2400

Pursuant to Idaho Code § 54-1510, the foregoing is adopted as the decision of the Board of Optometry in this matter and shall be effective on the 12th day of July, 1995. IT IS SO ORDERED.

IDAHO STATE BOARD OF OPTOMETRY

By

, Chairman